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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/471,101	12/21/1999	CHARLES H. REYNOLDS	CYBE.001US1	7011

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MAJESTIC PARSONS SIEBERT & HSUE
SUITE 1100
FOUR EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4106

[REDACTED] EXAMINER

HOLLOWAY III, EDWIN C

ART UNIT	PAPER NUMBER
2635	

DATE MAILED: 04/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

H G

Office Action Summary	Application No.	Applicant(s)
	09/471,101	REYNOLDS, CHARLES H.
	Examiner Edwin C. Holloway, III	Art Unit 2635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01-18-02.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,5-9,13,14,16,17 and 21-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,5-9,13,14,16,17 and 21-37 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) Notice of References Cited (PTO-892)
- 16) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 18) Interview Summary (PTO-413) Paper No(s) _____.
- 19) Notice of Informal Patent Application (PTO-152)
- 20) Other: _____.

Examiner's Response

1. The request filed on 1-18-02 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09471101 is acceptable and a CPA has been established. An action on the CPA follows.
2. In response to applicant's request to enter the amendment filed March 15, 2001, a previous amendment was received on 3-27-01 with a certificate of mailing dated 3-15-01. This amendment is considered by the USPTO as filed the actual date received (3-27-01) and was previously entered and considered in the Final rejection mailed 7-17-01. This earlier Final rejection is repeated below, and is again made Final. The examiner has considered presentation of claims and applicant's arguments in view of the disclosure and the present state of the prior art. And it is the examiner's opinion that the claims are unpatentable for the reasons set forth in this Office action:

INFORMATION DISCLOSURE STATEMENT

3. The prior art cited in the 3-27-01 IDS has been considered by the examiner except for the citations which do not identify author, date of publication and/or place of publication as required by 37 CFR 1.98(b). See the copy of the form 1449 sent with the 7-17-01 Final rejection with non-considered citations lined through.

SPECIFICATION

4. Applicant is reminded to update the cross-reference to related applications to include the serial numbers, status, and patent numbers where applicable.

CLAIMS

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 32 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably

convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The data terminal ready (DTR) limitation lacks support in the specification as originally filed.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 7 and 13-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, "said control sockets" lacks proper antecedent basis because claim 1 specifies a first network socket, not plural control signal sockets.

In claim 7, "said power line socket" lacks proper antecedent basis because claim 1 specifies a controlled power output socket and a power input connection, but not a power line socket.

In claim 13 lines 3, 9 and 10, "may be" is not a positive limitation.

In claim 16, "said power output sockets" lacks proper antecedent basis because claim 13 specifies a power output socket, not plural power output sockets.

In claim 17, "said output sockets" lacks proper antecedent basis because claim 13 specifies a power output socket, not plural output sockets.

Double Patenting

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 1-3, 5-9, 13-14, 16-17 and 21-37 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 09/309321. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of "wherein said first socket is able to receive a standard network cable connector and able to receive a control signal transmitted over a wire of a network cable; said network cable also carrying network communication signals over separate data wires" in copending SN 09/309321 corresponds to the limitation of "a first network socket located on said distinguishable surface; wherein said first network socket is able to receive a standard network cable connector and able to receive a control signal transmitted on one wire of a network cable also carrying network data communication signals on one or more separate data wires" in the instant application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

ART REJECTION

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claims 1-3, 5-9, 13-14, 16-17 and 21-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over CHENG '174 (US 5644174) or PULIZZI (US 5923103) in combination with EEM 96 electronic engineers master catalog published by Hearst

Business Communications, Inc. and Chang (US 5991885).

CHENG '174 discloses a universal AC sequencer for a server. The sequencer includes first control signal (input) socket 204, second control signal (pass thru output) socket 208, status indication LED's 216, switched power output sockets 130,140 controlled by control circuitry 250 including relays RLYM, RLY2. An IED AC input socket is included for a detachable power line or cord. The power sockets and control in socket are shown on a different parallel sides in fig. 3, but a housing is not particularly discussed. See col. 1 lines 1-10, col. 2 line 1 - col. 6 line 55.

PULIZZI discloses a remote switched output power controller 10 including first control signal (input) sockets 142,160, second control signal (pass thru output) socket 144,162, status indication LED's 30, switched power output sockets 16 controlled by control circuitry 18 including relays 60-76. The power sockets and control in socket are shown on a different parallel side in fig. 1, but a housing is not particularly discussed. See col. 1 line 46 - col. 4 line 62, col. 5 line 48 - col. 7 line 65.

EEM 96 discloses rack mounted remote controlled power supplies such as the MPD-100R MPD-100 IEC including a 1 3/4 inch high box housing for mounting in 1 standard rack unit, remote on/off control sockets on front, IEC power input socket for detachable line or cord on rear and switched power output sockets on rear. The TPC 115-10 and TPC 115-10/MTD include the above features and indicator lights. The IPC 3202 includes all the above features except only a single input on the rear is shown. The satellite antenna lightning arrester system on page 2260 includes RJ45 phone/data sockets on a 1.75 inch rack mount unit. See pages 2260-2261, 2326-2329, 2340-2343, especially pages 2260 and 2341.

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have modified Cheng '174 or PULIZZI to include the housing limitations of EEM 96 because Cheng and PULIZZI refer to rack mount or stacked units, because EEM 96 discloses the claimed rack mount housing for analogous art remote controlled power supply including devices by PULIZZI and because it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70. The inclusion of 2, 4 or 8 pairs of control sockets associated with one or more independently controlled power supply sockets would have been obvious in view of the various configurations shown in EEM 96 and because plurality of part for multiplied effect is well known to be obvious.

Chang discloses an analogous art remote power control device with power control signals communicated on unused pin(s) or wire(s) of standard network socket(s) or cable(s) such as standard RJ-45 connector or cable, while other pins or wires are passed through. See col. 8 lines 49-64, col. 9 line 40 - col. 10 line 45 and col. 13 lines 9-54. This allows power control of network devices without additional physical connections.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above power control signals communicated on unused pin(s) or wire(s) of standard network socket(s) or cable(s) such as standard RJ-45 connector or cable, while other pins or wires are passed through as disclosed in Chang in order to allow power control of network devices without additional physical connections. Plural, independent network sockets and control relays are further suggested by the plural, independent network connections of Chang, and DTR is at least suggested by the RS232 driver/receiver of Chang and RS232 connection in PULIZZI.

Response to Arguments

13. Applicant's arguments filed on 3-27-01 with respect to claims 1-3, 5-9, 13-14, 16-17 and 21-37 have been considered but are moot in view of the new ground(s) of rejection made on 7-17-01 and repeated in this Final rejection.

Applicant's amendment of the claims to include the limitation of power control signals communicated on a pin or wire of network socket(s) while passing data on other pin(s) or wire(s) necessitated the new rejection relying on Chang to teach that this limitation would have been obvious. The examiner acknowledges that a telephone interview with Mr. Leblanc occurred on 6-6-1 in which the examiner stated that further search would be required which resulted in this new grounds of rejection. The argument that Pulizzi lacks direct operative connection between a signal line of network sockets and the relays is not persuasive because such a limitation is not required by the claims. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner has provided motivations such as allowing use in standard rack mount network systems and allow remote power control without additional physical attachment as stated in the prior art rejections.

Final

14. This is a CPA of applicant's earlier Application No. 09471101. All claims are

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drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

CONTACT INFORMATION

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology center 2600 receptionist whose telephone number is **(703) 305-4700**.

Facsimile submissions may be sent via fax number (703) 872-9314 to customer service for entry by technical support staff. Questions regarding fax submissions should be directed to customer service voice line (703) 306-0377.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (703) 305-4818. The examiner can normally be reached on M-F (8:30:-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (703) 305-4704.

EH
4/6/02


EDWIN C. HOLLOWAY, III
PRIMARY EXAMINER
ART UNIT 2635